

LONG TERM CARE **FREQUENTLY ASKED QUESTIONS**

When can a pharmacist dispense a controlled substance listed in Schedule II to a resident in a Long Term Care facility (LTCF)?

A pharmacist is only permitted to dispense a CII controlled drug to a nursing facility resident pursuant to a valid, written prescription signed by the practitioner, unless an exception applies.

(Source: 21 CFR 1306.11(a); KAR 68-20-19; KAR 68-20-10a)

What constitutes a valid, written prescription?

In order to be considered valid, a prescription for a controlled drug (Classes II-V) must be **dated and signed** on the date it is issued and contain ALL of the following:

1. the full name and address of the patient
2. the drug name, strength, dosage form, quantity prescribed and directions for use, and
3. the name, address and registration number of the practitioner or midlevel practitioner.

(Source: 21 CFR 1306.05(a); K.S.A. 65-1656; KAR 68-20-18(c))

Is a chart order a valid written prescription for a controlled drug?

A chart order can only be a valid written prescription for a controlled drug if it contains all of the information of a valid written prescription. If any of those items are missing, the prescription drug order is invalid and the pharmacist legally cannot fill the prescription.

(Source: 21 CFR 1306.05(a); KAR 68-20-18)

Who can sign a written prescription order for a controlled drug?

Only the practitioner or a mid-level practitioner that has entered into a protocol with a practitioner that permits prescribing controlled drugs can sign the prescription order.

(Source: 21 CFR 1306.05(a), 1306.11(a); KAR 68-20-18(a))

May the pharmacist dispense a CII if the prescription is transmitted to the pharmacy by facsimile?

Yes, but only under the following conditions:

1. The prescription must be written either for a resident in a long-term care facility or in a Medicare hospice program.
2. The facsimile must meet all of the requirements of a valid, written

prescription order. This means it must contain all the information and it must be signed by the practitioner or midlevel practitioner.

3. In the case of hospice patients, the practitioner or the practitioner's agent must note on the prescription that the patient is a hospice patient.

4. The facsimile must be maintained in the same manner as other prescriptions for controlled drugs.

(Source: 21 CFR 1306.11(f)&(g); KAR 68-20-10a(e))

Many pharmacies receives the CII prescriptions on Chart Orders that are faxed to the pharmacy by the nurse in the nursing facility. Often, physicians just call the pharmacy. Is this allowed?

While this is common practice in long-term care facilities, it technically violates DEA regulations. Pharmacists who dispense CII's based on chart orders that are faxed by the facility to the pharmacy or verbal orders for CII's made by telephone potentially face civil fines and penalties and may be prosecuted for violated the Controlled Substances Act.

(Source 21 C.F.R. 1306.05(a), 1306.11).

When can a pharmacist dispense a CII based upon the verbal order of the practitioner?

The only time that a pharmacist can dispense a CII upon the verbal order of a practitioner is in an emergency situation. Pharmacies may only dispense a quantity limited to the amount adequate to treat the patient during the emergency period. The DEA defines emergency very narrowly. The term emergency situations means: (1) immediate administration of the controlled substance is necessary for proper treatment of the intended ultimate user; (2) no appropriate alternative treatment is available, including administration of a drug which is not a controlled substance under Schedule II, and (3) it is not reasonably possible for the prescribing practitioner to provide a written prescription to be presented to the person dispensing the substance, prior to dispensing.

(Source: 21 CFR 290.10); KAR 68-20-10a(e)(5)).

In addition, upon receipt of the verbal order, the pharmacist must reduce the verbal order to writing. The writing must contain all of the information required for a valid written prescription (See A1), except for the signature of the practitioner. If the pharmacist does not know the physician, the pharmacist must make a reasonable attempt to determine that the oral authorization came from a registered individual practitioner. Additionally, within 7 days after authorizing an emergency oral prescription, the practitioner must deliver a valid, written prescription to the dispensing pharmacist. In addition to the required elements of a valid written prescription, it must include the words, "Authorization for Emergency Dispensing" and the date of the oral order. Upon receipt, the pharmacist

must attach the written authorization form to the pharmacist's transcription of the oral prescription.

(Source: 21 CFR 1306.11(d); KAR 68-20-10a(e)(5); KAR 68-20-19(a)(4)).

What should the pharmacy do if the practitioner fails to send the authorization within seven days?

DEA and state regulations state that a pharmacist *must* notify the nearest DEA office if a practitioner fails to deliver a written prescription within the seven-day time period. If the pharmacist fails to report the practitioner, the authority to fill an oral order is voided. In other words, the pharmacist will be liable for violating the Controlled Substances Act. Pharmacists must have a tickler or other systems in place to ensure that practitioners are complying with the seven-day rule. (If practitioners fail to send the written prescription, pharmacists **must** report them to DEA. Practitioners should be reminded of this periodically.)

(Source: 21 CFR 1306.11(d)(4); KAR 68-20-10a(e)(5)(D)(iii); KAR 68-20-19(a)(4)(e)).